THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.Nos.11853 & 11857 of 2007

Date : 31-10-2007

Between:

Chandra Subrahmanyam Naidu ..

Petitioner

And

Branch Manager,
The Catholic Syrian Bank Limited,
Subedarpet, Nellore,
Nellore District
And others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.Nos.11853 & 11857 of 2007

COMMON ORDER:

1. These two Writ Petitions are being disposed of by a Common Order since in both the Writ Petitions, the inaction on the part of 1st respondent-Bank in not waiving the interest on the petitioners' agricultural loans as per the RBI Circular Nos.RBI 2006-07/156/RPCD PLFS No.BC 31.05.04.02.2006-07 dated 18-10-2006 and Circular No.24/13.05.2000/20-06-2007 dated 26-12-2006 as illegal, arbitrary and violative of Articles 14 and 19 of the Constitution of India and direct the respondents 1 and 2 to waive the interest on petitioners' agricultural loans as on 1-7-2006 and to pass such other suitable orders.

2. Counter affidavit is filed by the Branch Manager-1st respondent in W.P.No.11853/2007.

3. Heard the Counsel for writ petitioners in both these Writ Petitions and also the Counsel representing the 1st respondent.

4. It is stated by the writ petitioner in

W.P.No.11853/2007 that the petitioner obtained a loan of Rs.7,50,000/- for agricultural harvester. The petitioner paid some amounts in instalments to the 1st respondent-Bank. Subsequently, the petitioner could not repay the instalments. The 1st respondent filed a civil suit for recovery of a sum of Rs.6,60,447/- before the Court of Subordinate Judge, Chengalpattu in Tamil Nadu State as the guarantor's property is located within the jurisdiction of the Chengalpattu Court and the same is *subjudice*. It is also stated that it is primarily an agricultural loan entitled to the benefit of waiver of interest as per RBI Circular No. RBI 2006-07/156/RPCD PLFS No.BC 31.05.04.02.2006-07 dated 18-10-2006. Further it is stated that the petitioner sent a letter dated 20-12-2006 and got issued legal notice dated 8-2-2007 to the 1st respondent with copies to respondents 2 to 5 requesting them to waive total interest as relief provided by the Union of India and the respective States of Andhra Pradesh, Karnataka and Kerala vice R.B.I. Circular No.24/13.05.2000/20-06-2007 dated 26-12-2006 for the debt stressed farmers of 25 Districts of Andhra Pradesh, Karnataka and Kerala and the Union Government had approved a package that the entire interest will be shared equally by the State and the Central Governments. It is also further stated that the said

RBI Circular is applicable to the farmers of Nellore District, Andhra Pradesh and hence the petitioner also is entitled to get the waiver of interest. The 1st respondent neither responded to the letter or legal notice nor settled the matter.

5. Likewise, in W.P.No.11857/2007, the writ petitioner obtained agricultural loan of Rs.9,70,000/- in the year 1996 for agricultural harvester. The petitioner paid some amounts to the 1st respondent-Bank and also the guarantor of the petitioner A.Satyavathi paid Rs.5,08,000/- on 24-1-2003. The 1st respondent-Bank filed O.A.No.993/2002 before the Debt Recovery Tribunal, Visakhapatnam for recovery of Rs.19,86,770/- which was allowed as claimed by the 1st respondent-Bank on 12-1-2007 ignoring the interest relief given to the agricultural loans. It is also stated that the petitioner sent a letter dated 20-12-2006 and got issued legal notice dated 8-2-2007 requesting the respondents to waive the interest as per Circular No.2006-07/156/RPCD PLFS No.BC 31.05.04.02.2006-07 dated 18-10-2006 as relief provided by the Union of India and the respective States of Andhra Pradesh, Karnataka and kerala vide R.B.I. Circular.No.24/13.05.2000/20.06.2007 dated 26-12-2006 to the debt stressed farmers of 25 Districts in Andhra

Pradesh, Karnataka and Kerala and the Union Government had approved a package that the entire interest will be shared equally by the State and the Central Governments. It is also further stated that the said RBI Circular is applicable to the farmers of Nellore District, Andhra Pradesh and hence the petitioner also is entitled to get the waiver of interest. The 1st respondent neither responded to the letter or legal notice nor settled the matter.

6. In both these Writ Petitions, Notice Before Admission had been ordered on 8-6-2007 and pending further orders, the respondents were directed not to take any coercive steps against the respective petitioners.

7. In W.V.M.P.No.2715/2007 in W.P.No.11853/2007, in the counter affidavit it is stated that the petitioner is a resident of Kothapalem village, Atmakur Mandal, Nellore District and is having agricultural land extending Acs.31.78 cents and is deriving an annual income of Rs.1,30,000/- in the year 1994. The petitioner approached the 1st respondent-Bank for a term loan to purchase Harvester Machine and the 1st respondent-Bank sanctioned a loan of Rs.7,50,000/- against security of hypothecation of the Harvester Machine and guarantee of Sri N.Muniratnam and mortgage of immovable property

comprising of building site extending 3000 Sft. At Palavakkam in Chennai. In terms of sanction of loan facilities, the loan is repayable with interest in 10 half-yearly instalments of Rs.75,000/- and interest starting from 26-4-1995. It is further stated that the petitioner failed to keep up the repayment schedule, acknowledged his liability and the documents by signing revival letters and failed to pay the outstanding sum in the term loan account and an amount of Rs.6,04,338/- remained outstanding as on 24-5-2001 necessitating the 1st respondent-Bank to serve a notice demanding payment of the outstanding sum. The petitioner failed to pay the sum due and payable to the 1st respondent-Bank despite the notice necessitating the 1st respondent-Bank to file suit O.S.No.412/2001 on 26-9-2001 in the Court of Subordinate Judge at Poonammallee for recovery of Rs.6,60,427/- with interest from the date of suit till realization. The suit filed by the 1st respondent-Bank against the petitioner is pending before the Sub-Court, Poonammallee, Tamilnadu and is *sub-judice.* It is also further stated that the Writ Petition filed by the petitioner seeking to waive the entire interest basing his claim on RBI Circular No.2006-07/156/RPCD PLFS No.BC 31.05.04.02.2006-07 dated 18-10-2006 is not tenable.

The Circular under reference issued by the R.B.I. is not statutory in nature and the petitioner does not have right to seek for any relief from this Court in exercise of its extraordinary jurisdiction for issuance of a writ direction to waive the interest. Further, on a reading of the Circular, the directive of the R.B.I. obviously refers to loans availed by the farmers annually for raising crops and to waive interest in such crop loans in the accounts of farmers in the drought prone Districts and are overdue during relevant years which interest is to be reimbursed to be Banks by the respective Governments and that the farmers should be treated as eligible for fresh loans for the succeeding year despite the earlier default. The 1st respondent-Bank without prejudice to its contentions had also lodged its claim with the respective authorities for reimbursement of the interest levied in the respective accounts of the farmers. It is also further stated that the Circular referred by the petitioner had been issued in December 2006 and the loan availed by the petitioner was on 26-10-199 and the suit for recovery of the outstanding sum in his term loan was filed on 5-6-2001 which is *subjudice* before the Court and the Circular of the R.B.I. dated 26-12-2006 does not apply and the petitioner is not entitled to claim any relief for recovery of

which a suit had been filed in the year 2001. Further, the Writ Petition filed by the petitioner invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India does not lie while the suit filed by the 1st respondent-Bank is pending and subjudice before the Civil Court which is the forum in which the petitioner is to agitate for any relief if he is entitled against the 1st respondent-Bank. The relief prayed by the petitioner in the Writ Petition in effect amounts to relief to dismiss the suit pending before the Civil Court.

8. In the light of the facts and circumstances and also the respective stands taken by the parties, the question to be decided is whether the respective petitioners in these Writ Petitions are entitled to the benefit of waiver of interest in the light of the Circulars of the Reserve Bank of India referred to supra.

9. The learned Standing Counsel representing the 1st respondent-Bank placed strong reliance on a decision of the Apex Court in **M/s.Transcore Vs. Union of India and another** [1]**.** It is no doubt true that it is for the Reserve Bank of India to clarify the situation. However, the 1st respondent-Bank had taken a specific stand that the Circulars of the Reserve Bank of India on which reliance had been placed cannot be made

applicable. It appears certain suits had been filed and the same are pending. Hence, liberty is given to the petitioners to raise all these contentions inclusive of the benefit by waiver of interest as per the Circulars referred to supra in such pending proceedings. The petitioners also are at liberty to make representations if they are so advised to the 1st respondent-Bank and let the 1st respondent-Bank consider the said representations in accordance with Law and pass appropriate orders in the light of the Circulars or the guidelines governing the field issued by the Reserve Bank of India from time to time.

10. With the above observations, the Writ Petitions are disposed of. No order as to costs.

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Justice P.S.Narayana

Date :

L.R. copy to be marked : YES / NO

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[1] **AIR 2007 S.C. 712**